



Atty Dkt No. 7035-0004
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

DINELLO et al.

Confirmation No.: 7040

Serial No.: 09/823,868

Group Art Unit: 1641

Filing Date: March 30, 2001

Examiner: NGUYEN, B.

Title: PREWETTING STOP FLOW TEST STRIP

TERMINAL DISCLAIMER

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

PraxSys BioSystems, Inc., hereinafter "Assignee", having a place of business at 12945 Alcosta Blvd., San Ramon, California 94583, is the owner of the entire right, title and interest in and to application U.S. Serial No. 09/823,868, filed March 30, 2001, by virtue of an assignment recorded July 3, 2001 at Reel 011994, Frame 0007 and is also the owner of the entire right, title and interest in and to U.S. Patent No. 6,528,323, filed June 14, 1999 and issued March 4, 2003, by virtue of assignments recorded September 13, 1999 at Reel 010230, Frame 0219 and Reel 010232, Frame 0173.

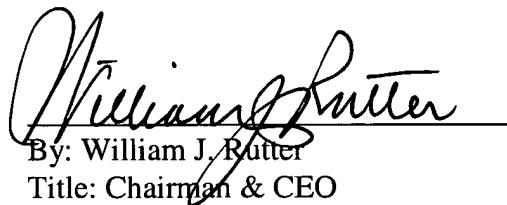
In accordance with 37 C.F.R. §3.73(b), Assignee hereby certifies that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of Assignee's knowledge and belief, title is in the assignee seeking to take this action.

The assignee hereby disclaims the terminal part of any patent granted on the above-captioned application Serial No. 09/823,868 which would extend beyond the expiration date of U.S. Patent No. 6,528,323, except as provided below, and agrees that any patent granted on the above-captioned application 09/823,868 will be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,528,323, this agreement to run with any patent granted on the above-captioned application Serial No. 09/823,868 and to be binding upon the grantee, its successors or assigns.

In making this disclaimer, the assignee does not disclaim any terminal part of any patent granted on the above-identified application Serial No. 09/823,868 that would extend to the expiration date of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent No. 6,528,323 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321(a), has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, or to credit any overpayment to Deposit Account No. 18-1648.

Executed at San Francisco, California



William J. Rutter
By: William J. Rutter
Title: Chairman & CEO

Date: September 23, 2003

SUBJECT: DECISION ON TERMINAL DISCLAIMERS INFORMAL FORM

DATE: 10-27-03

APPL. S.N.: 091823, 868

TO EXAMINER: B. Nguyen

ART UNIT: 1641

MOSE MONTGOMERY, ROOM 11E18

MAILROOM DATE 10-10-03

AFTER FINAL YES NO NUMBER OF T.D(S). FILED 1

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE IN LEFT IN FILE.

The T.D. is PROPER and has been recorded. (See 14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

The recording fee of \$ _____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

Application Examiner has not processed T.D. fee. (See fee authorization).

The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

The person who signed the terminal disclaimer:

has failed to state his/her capacity to sign for the business entity, (See 14.28).

is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

The T.D. is not signed. (See 14.26, 14.26.3, or 14.26.03 if TD is not signed by all the owners).

Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed) is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3) (For Samples 14.27.04 and 14.27.05)

Other: _____

Suggestion to request refund of \$ _____. (See 14.35, 14.36).

EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALITIES MAY BE FAXED IN TO THE GROUP.

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

Sample of a TD over a pending application and assignee Certificate (See 14.37).

Sample of a TD over a prior patent and assignee Certificate (See 14.38).

Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)